

REMARKS

It should be noted that the Office Action Summary (PTO Form 326) is silent about Claims 22-29. Applicant requests that the status of these claims be addressed in the next Office Action. Of the application's claims addressed (application Claims 1-21) there are two independent Claims 1 and 11 (Claims 2-10 and 12-21 depend therefrom). Accordingly, since the dependent Claims 2-10 and 12-21 include all of the limitations of independent Claims 1 and 11, if Claims 1 and 11 are allowable then all Claims 1-21 are allowable. Since: (1) the obviousness-type double patenting rejection of Claim 1 is believed improper as explained below; (2) Claim 11 has been amended to address the rejection; and, (3) to reduce the issues to be considered by the Examiner, only the rejection of Claim 1 and arguments for the allowance of Claim 1 and amended Claim 11 will be further addressed.

Reconsideration of the rejection of Claims 1-21 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-21 of U.S. Patent No. 6,375,278 (hereinafter the '278 patent) is hereby requested. Claim 11 has been amended to include the subject matter of Claim 12 and the identification of the pressure relief valve as a "single, common pressure relief valve...". Claim 12 is cancelled without prejudice or disclaimer of the subject matter therein.

Applicant concurs with the Examiner that the claims of the instant application and those of the '278 patent are not identical. However, Applicant disagrees with Examiner's assertion that Claims 1-11 and 13-21 are not patently distinct.

Under U.S. Patent Law, the question of patentability is generally one of novelty under 35 U.S.C. § 102 or obviousness under 35 U.S.C. § 103. Each and every claim limitation supports patentability unless shown to be not novel or shown to be obvious. The rejection presented in the Office Action references that specified elements would be obvious to one skilled in the art and those elements should be added to the '278 patent. Hence, this is taken to mean that the Examiner believes that Claims 1-21 of the instant application are not anticipated by the claims of the '278 patent.

However, a review of the rejection indicates that the Examiner has provided no evidence that the claims or the disclosure of the '278 patent, being used as a primary or base reference, discloses all of the limitations of the instant application's independent Claim 1 and amended Claim 11. Rather, the Examiner references limitations alleged to be obvious. Claim 1 and amended Claim 11 recite the following: